

Exhibit M

1 DEPARTMENT OF POLICE ACCOUNTABILITY

2 DPA CASE NO.: 0164-16

3
4 INTERVIEW OF: [REDACTED]

5 DATE OF INTERVIEW: 04/28/2016

6
7
8 INV. WECHTER: Today's date is April 28th, 2016, and
9 it's 12:54 a.m. This is OCC Investigator Wechter, conducting an
10 interview in connection with OCC Case number 164-16. I am at
11 [REDACTED], the home of [REDACTED], and I'm speaking
12 with him in his kitchen. [REDACTED], you're aware this is
13 being recorded?

14 [REDACTED]: Yes, I am.

15 INV. WECHTER: And your [REDACTED] is also present,
16 [inaudible].

17 [REDACTED]: Yes, she is.

18 INV. WECHTER: So, you showed me that the window here is
19 the one you looked from. That you have sort of a [bent] seat
20 table here, perpendicular to the window.

21 [REDACTED]: That's right.

22 INV. WECHTER: You were sitting approximately at the
23 middle of it, and I took a photograph of that, and then you
24 heard a sound. [REDACTED]

25 [REDACTED]: [REDACTED]

26
27 INV. WECHTER: Looking out the open, center window.

28 [REDACTED]: That's correct.

1 INV. WECHTER: And I think you said that the man was
2 sitting on the sidewalk with his back against the last pilaster.
3 [REDACTED]: That's correct, yes.
4 INV. WECHTER: Next to the garage door.
5 [REDACTED]: Yes.
6 INV. WECHTER: Now, currently, there's a white Toyota
7 Tacoma pickup truck parked in that space, and I think there was
8 a similar vehicle parked that you remember?
9 [REDACTED]: Yes. There was a white truck with a camper.
10 INV. WECHTER: Yeah, which we've seen in your video.
11 [REDACTED]: Yes.
12 INV. WECHTER: So, do you remember how much of Luis you
13 could see from this perspective?
14 [REDACTED]: Almost all of Luis, I would say.
15 INV. WECHTER: Okay.
16 [REDACTED]: The truck that was parked there was a little
17 further back, so the windshield and the top of the truck were a
18 good vantage point. They weren't in the way of my vantage point.
19 So, I could see all of Luis.
20 INV. WECHTER: And you said that the first officer that
21 you noticed is the one that was carrying the shotgun.
22 [REDACTED]: Right.
23 INV. WECHTER: He started shouting commands to Luis when
24 he was six, six to seven steps from his vehicle. So, can you,
25 are you able to point out approximately where that was?
26 [REDACTED]: Sure. The first police car stopped almost
27 directly in front of our window here. So, right there. And the
28 officer got out of the driver's side and began walking on the

1 other side of the tree there, down the sidewalk towards Luis.

2 INV. WECHTER: And when you're referring to the tree,
3 you're referring to the second tree north of the telephone pole.

4 [REDACTED]: That's correct.

5 INV. WECHTER: Okay. And is that approximately where you
6 heard him start giving commands?

7 [REDACTED]: Well actually, so the car stopped right
8 here, and he went between the first and the second tree, and
9 then over, if my recollection is correct.

10 INV. WECHTER: Okay. The first and second tree, not the
11 second and third tree?

12 [REDACTED]: Yeah. Well, I consider that the first tree
13 and that the second tree.

14 INV. WECHTER: Right. I'm talking that the first tree is
15 the first tree north of the telephone pole on the east side of
16 the Shotwell Street?

17 [REDACTED]: That's correct, that's correct.

18 INV. WECHTER: Okay. And I see, looking from your
19 window, there are three trees with gray trunks, approximately
20 [three feet] apart, and then opposite, a tree above, to the
21 north, with a reddish trunk, a little bit smaller, and just on
22 the other side of the [crossing] sign, there's a very young tree
23 which protects, with a [steel] protection around it.

24 [REDACTED]: Correct.

25 INV. WECHTER: Okay. And you mentioned that he had the
26 shotgun at his shoulder, as soon as he cleared the obstacle,
27 which was the tree just north of the telephone pole.

28 [REDACTED]: That's correct.

1 INV. WECHTER: So, would that be, pretty much, as soon
2 as he got onto the sidewalk there?

3 [REDACTED]: Yes. In fact, as soon as he got onto the
4 area there, above, off the street, that's when he started
5 shouting commands, and he raised the rifle.

6 INV. WECHTER: Okay. And you said you felt he was
7 approximately two feet from the building, from the wall.

8 [REDACTED]: That's right.

9 INV. WECHTER: As he moved towards Luis.

10 [REDACTED]: That's correct.

11 INV. WECHTER: And you mentioned that he fired three or
12 four rounds with the shotgun. Can you estimate where he was at
13 that time, when you heard them?

14 [REDACTED]: He was probably close to the second pilaster
15 there when he began firing. Approximately 12 to 14 feet from
16 Luis.

17 INV. WECHTER: And you mentioned that when the officer
18 with the shotgun stopped shooting, Luis jumped to his feet
19 pretty quickly and extended his arms a little bit.

20 [REDACTED]: That's correct.

21 INV. WECHTER: Can you show me how he did that?

22 [REDACTED]: Sure. He was in a seated position, and he
23 was getting shot, and he turned after the initial shot.

24 INV. WECHTER: So, you're turning your body, your torso
25 to the left.

26 [REDACTED]: Right, south.

27 INV. WECHTER: With your elbow moving across your knees.

28 [REDACTED]: Right.

1 INV. WECHTER: Your right elbow moving across your
2 knees.

3 [REDACTED]: Right. So, as soon as the shooting stopped,
4 Luis got up and gestured with his arms, holding them out.

5 INV. WECHTER: Okay. And you're holding your hands out.

6 [REDACTED]: And shouted.

7 INV. WECHTER: Almost shoulder height.

8 [REDACTED]: Right.

9 INV. WECHTER: Palms up, just slightly forward of the
10 chest.

11 [REDACTED]: Right. And shouted, but it was inaudible
12 what...it was audible, it was just undiscernible as to what he
13 shouted.

14 INV. WECHTER: Okay. Because I think you told me it
15 might have been something like, "Why are you shooting me?" Or,
16 "What's going on?"

17 [REDACTED]: Well, that's what his gesturing indicated to
18 me.

19 INV. WECHTER: Okay.

20 [REDACTED]: But he shouted something in Spanish that I
21 did not understand.

22 INV. WECHTER: And you said that the officer with the
23 shotgun then said something to the effect of, "Put it down. Put
24 that down. Drop it."

25 [REDACTED]: The second officer that had come up, at that
26 point, shouted, "Put it down. Put it down. Drop it. Drop it."
27 Something to that effect. That was the second officer. The first
28 officer, I didn't see him say anything else.

1 INV. WECHTER: Okay. And you said at that point, when
2 Luis made that gesture, he was, you felt he was within one to
3 three feet of where he had been seated, away from the wall.
4 [REDACTED]: That's correct.
5 INV. WECHTER: [Unintelligible.]
6 [REDACTED]: He was out one to three feet out from where
7 he was seated and leaning against the pilaster that's next to
8 the garage door.
9 INV. WECHTER: So, was that one to three feet towards
10 the curb or towards our direction?
11 [REDACTED]: Towards the curb.
12 INV. WECHTER: And at that point, was any part of your
13 view of him obscured by the pickup truck there?
14 [REDACTED]: Possibly the lower part of his body, but I
15 don't recall exactly.
16 INV. WECHTER: And were you able to find out where the
17 officers were when they started firing their handguns? And you
18 said you're familiar with the difference between the sounds of a
19 handgun and a shotgun?
20 [REDACTED]: Sure. Right. So, the officer, the first
21 officer that exited the car and began shooting Luis with the
22 shotgun, was just south of the telephone pole, but still against
23 the wall. And the second officer was just to the right of the
24 telephone pole and about at the curb, or maybe one or two steps
25 onto the sidewalk.
26 INV. WECHTER: And when you say south of the telephone
27 pole, do you mean from your perspective?
28 [REDACTED]: Yes.

1 INV. WECHTER: You could see they were south of the
2 telephone pole?

3 [REDACTED]: Yes.

4 INV. WECHTER: Because obviously, we're at an angle.

5 [REDACTED]: That's right.

6 INV. WECHTER: Sort of, not a 90-degree angle across.

7 [REDACTED]: So, they were, from my perspective, they
8 were between the first and second pilaster; the first officer
9 was. The second officer was just getting onto the sidewalk when
10 that started.

11 INV. WECHTER: When that second officer was getting on
12 the sidewalk, was he stepping on the sidewalk on the north side
13 of the telephone pole or the south side?

14 [REDACTED]: The south side.

15 INV. WECHTER: South side?

16 [REDACTED]: Uh-huh.

17 INV. WECHTER: And did the officers move from those
18 locations?

19 [REDACTED]: They did. When the shooting started, they
20 began to move around in sort of a circular motion, and then
21 back, then north, still between telephone pole and the wall, but
22 back and north of where Luis was.

23 INV. WECHTER: And you said that Luis didn't move before
24 he got shot, but after he was shot, he moved back and forth and
25 then fell forward.

26 [REDACTED]: That's correct.

27 INV. WECHTER: Do you know kind of where he was when he
28 fell forward?

1 [REDACTED]: He was about...well, initially, when he was
2 away from the wall, he was probably three feet; one to three
3 feet away from his seated position. And then when he fell
4 forward, he fell forward probably six feet or more towards the
5 telephone pole, and just on the other side of the truck, on the
6 sidewalk.

7 INV. WECHTER: And where is that in relation to the
8 telephone pole and the steel pole just south of it, with the
9 school crossing sign?

10 [REDACTED] He was just south of the crossing sign.

11 INV. WECHTER: And you described his falling. Was it the
12 way you would fall if you just, if your body just leaned forward
13 and fell?

14 [REDACTED]: He fell face forward and it was just a
15 normal sort of falling forward.

16 INV. WECHTER: Did you see if he stumbled at all?

17 [REDACTED]: I probably couldn't see the bottom of his
18 feet at that point, but that appeared to be a stumbling.

19 INV. WECHTER: Uh-huh. And you mentioned that you saw
20 blood on the sidewalk.

21 [REDACTED]: Uh-huh.

22 INV. WECHTER: Do you know where that was?

23 [REDACTED]: Sure. It was in the general vicinity of the
24 school crossing sign and, but on the sidewalk.

25 INV. WECHTER: And where, in relation to the school
26 crossing sign?

27 [REDACTED]: Probably just east and north of the school
28 crossing sign; very close to the curb.

1 INV. WECHTER: Now, when you said that your view was
2 only obscured when Luis was on the ground?

3 [REDACTED]: Right. Although I could see him, I could see
4 most of his body when he was lying on the ground, because the
5 truck that was there was back far enough where I had a pretty
6 good view of his body.

7 INV. WECHTER: And so, can you describe where his body
8 was on the sidewalk?

9 [REDACTED]: Well, it was close to the curb and in the
10 proximity of the school crossing sign and the telephone pole.

11 INV. WECHTER: Between them or on one side of them?

12 [REDACTED]: It was probably closer to the school
13 crossing sign, next to the curb.

14 INV. WECHTER: Now, you had mentioned that, you said
15 some people said he lunged at the police. Do you know who that
16 is?

17 [REDACTED]: I don't, no. I just watched the news report
18 and seeing...I think the first, of the first comments that the
19 Police Chief made at the news conference that afternoon was that
20 he had lunged at an officer.

21 INV. WECHTER: And you mentioned that you and a neighbor
22 had spoken to Luis in Spanish?

23 [REDACTED]: That's correct.

24 INV. WECHTER: And did he seem to understand?

25 [REDACTED]: He did, uh-huh.

26 INV. WECHTER: How well did he seem to understand?

27 [REDACTED]: It wasn't a lot of verbal communication with
28 him. We were having a barbeque and we were out front at the

1 time, and my neighbor, who speaks Spanish, asked him his name
2 and he told us his name. And this was during Easter Sunday, on
3 Easter Sunday; not a lot of conversation other than that.

4 INV. WECHTER: And which neighbor was that?

5 [REDACTED]: That was [REDACTED], [REDACTED], [REDACTED],
6 she lives upstairs, across the hall from [REDACTED].

7 INV. WECHTER: And did you ever speak English with him?

8 [REDACTED]: I tried, but he didn't understand. He would
9 say good morning to me sometimes outside in broken English, and
10 if I ever responded with anything more than good morning, about
11 the weather or something, he would just nod and look somewhat
12 confused.

13 INV. WECHTER: And I think you said that as the officers
14 were firing, they began to move backwards and towards the wall?

15 [REDACTED]: Right.

16 INV. WECHTER: So, can you describe?

17 [REDACTED]: Sure. That was the circular motion I was
18 describing, when they were both trying to get out, what appeared
19 to be, trying to get out of Luis' falling body. And so, they
20 moved towards the wall from their positions, particularly the
21 officer, Officer number two, who was out further. Once he
22 started shooting Luis, he moved north and towards the wall to be
23 nearer the first officer.

24 INV. WECHTER: Uh-huh. And I think you said you saw a
25 neighbor exiting the building and stood there. Was that
26 Miss Patrick?

27 [REDACTED]: At what point?

28 INV. WECHTER: Afterwards?

1 [REDACTED]: Yes. Afterwards, Smith went downstairs, and
2 I saw her out the window, and I went downstairs.

3 INV. WECHTER: Uh-huh. Anything else you can point out
4 from here?

5 [REDACTED]: Not really. I mean it's a pretty good
6 vantage point. I think Smith is up a little bit higher, but
7 she's a little further down. So, she probably even had a better
8 or less obstructed view by the truck that was parked there. But
9 other than that, it's pretty much how I recall everything.

10 INV. WECHTER: And how tall are you?

11 [REDACTED]: [REDACTED]

12 INV. WECHTER: [REDACTED] Okay. Do you happen to know how high
13 the floor is above the ground?

14 [REDACTED]: Do you mean the window? Uh, you mean the
15 bottom of the floor? I don't. I think it's got to be, I mean,
16 our first floor down there, it's got to be 12 to 14 feet.

17 INV. WECHTER: Okay. I have a couple of measuring
18 devices.

19 [REDACTED]: Okay.

20 INV. WECHTER: So, I'm going to stop the recording now.

21 [REDACTED]: Okay.

22 INV. WECHTER: Unless there's anything else? It's 1:10
23 p.m.

24 END OF DOCUMENT
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